

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
2 ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
3 ALCOHOLIC BEVERAGE CONTROL BOARD

5 - - - - - - - - - - - - - X

6 IN THE MATTER OF: :

7 T and A, LLC: Case # 16-CMP-00385

8 t/a Montana Liquors :

9 1801 Montana Ave NE :

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10 License #97473 :
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11  Retailer A      :

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12 ANC 5C :

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13  No ABC Manager on Duty      :
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15 Wednesday, February 8, 2017

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17 Whereupon, the above-referenced matter
18 came on for hearing at the Alcoholic Beverage
19 Control Board, Reeves Center, 2000 14th Street,
20 N.W., Suite 400S, Washington, D.C. 20009.

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2 BOARD MEMBERS PRESENT

3 DONOVAN ANDERSON, CHAIRMAN

4 NICK ALBERTI, BOARD MEMBER

5 JAMES SHORT, BOARD MEMBER

6 MIKE SILVERSTEIN, BOARD MEMBER

7 MAFARA HOBSON, BOARD MEMBER

8

9 ALSO PRESENT:

10 WALTER ADAMS

11 RETTA MAKONNEN

12 AYINADES MAMO

13 VERNON LEFTWICH

14 MR. STEFORCE

15

1 P R O C E E D I N G S

2 SHOW CAUSE HEARING

3 CHAIRPERSON ANDERSON: The next matter on our
4 afternoon calendar is a show cause hearing, case
5 #16-CMP-00385, Montana Liquors, license #97473.
6 Will the parties please approach and identify
7 themselves for the record, please?

8 MR. ADAMS: Good afternoon, Mr. Chairman and
9 members of the board I'm Walter Adams
10 representing the District of Columbia.

11 CHAIRPERSON ANDERSON: Good afternoon. Sir,
12 can you stand up please? You. Can you raise
13 your right hand, please?

14 MR. MAKONNEN: I'm Retta Maknonen.

15 CHAIRPERSON ANDERSON: Do you swear or affirm
16 to faithfully translate this matter from English
17 to Amharic and from Amharic to English?

18 MR. MAKONNEN: I do.

19 CHAIRPERSON ANDERSON: Have a seat, please.
20 Go ahead, sir. Can everyone identify themselves
21 for the record please?

22 MS. MAMO: I'm Ayinades Mamo.

1 CHAIRPERSON ANDERSON: Good afternoon, ma'am.
2 Are there any preliminary matters in this
3 hearing?

4 MR. ADAMS: Mr. Chair, there are no
5 preliminary matters in this hearing.

6 CHAIRPERSON ANDERSON: Is the government
7 ready to move forward?

8 MR. ADAMS: Yes, the government is ready to
9 go forward in this case.

10 CHAIRPERSON ANDERSON: Does the government
11 wish to make an opening statement?

12 MR. ADAMS: The government will waive any
13 opening statements at this time.

14 CHAIRPERSON ANDERSON: Ms. Mamo, do you wish
15 to make an opening statement in this case or will
16 you make one after the government has presented
17 its case?

18 MS. MAMO: I will after the government
19 presents their case.

20 CHAIRPERSON ANDERSON: That's fine. Go
21 ahead. Does the government wish to call its
22 first witness?

1 MR. ADAMS: Yes, Mr. Chair, the government
2 has one witness, Investigator Leftwich.

3 CHAIRPERSON ANDERSON: Can you raise your
4 right hand please? Do you swear or affirm to
5 tell the truth and nothing but the truth?

6 INVESTIGATOR LEFTWICH: Yes.

7 CHAIRPERSON ANDERSON: Have a seat, please.
8 Thank you. Your witness, sir.

9 MR. ADAMS: Thank you. Mr. Leftwich, can you
10 please state your name and spell it for the
11 record?

12 INVESTIGATOR LEFTWICH: My name is Vernon
13 Leftwich, V-E-R-N-O-N, last name Leftwich, L-E-F-
14 T-W-I-C-H.

15 MR. ADAMS: And Mr. Leftwich, you are
16 employed by the District of Columbia government,
17 correct?

18 INVESTIGATOR LEFTWICH: Yes, I am.

19 MR. ADAMS: And you are -- and the agency you
20 are employed by is the Alcoholic Beverage
21 Regulation Administration?

22 INVESTIGATOR LEFTWICH: Yes, it is.

1 MR. ADAMS: And you're an investigator for
2 ABRA?

3 INVESTIGATOR LEFTWICH: Yes, I am.

4 MR. ADAMS: And how long have you been in
5 that position?

6 INVESTIGATOR LEFTWICH: I've been in this
7 position nearly two years.

8 MR. ADAMS: And, as an investigator did you
9 have an occasion to be upon the premises of --
10 well, first of all, are you familiar with the
11 establishment named Montana Liquors?

12 INVESTIGATOR LEFTWICH: Yes, I am.

13 MR. ADAMS: Have you, at any time, had
14 occasion to be upon its premises?

15 INVESTIGATOR LEFTWICH: Yes, I have.

16 MR. ADAMS: On March 1, 2016, were you on
17 duty?

18 INVESTIGATOR LEFTWICH: Yes, I was.

19 MR. ADAMS: And on March 1, 2016, did you
20 have occasion to be at Montana Liquors?

21 INVESTIGATOR LEFTWICH: Yes. I was on a
22 special assignment and I went to the

1 establishment with a DCRA investigator.

2 MR. ADAMS: What time approximately did you
3 go over there?

4 INVESTIGATOR LEFTWICH: I do not recall,
5 exactly, but I believe it was approximately
6 10:20.

7 MR. ADAMS: So, in going to Montana Liquors
8 with the DCRA investigator what was the purpose
9 of you going to visit the establishment?

10 INVESTIGATOR LEFTWICH: My supervisor
11 Investigator Keith Gathers, assigned myself and
12 another investigator to a Ward Five Initiative
13 and we were assigned pretty much to check all the
14 licensed establishments in Ward Five to ensure
15 that there were not violations as it pertained to
16 the window signage rule that no more than 25% of
17 the signage can cover the window.

18 MR. ADAMS: And as a result of your visit,
19 did you initiate an investigation?

20 INVESTIGATOR LEFTWICH: Yes, upon entering
21 the establishment I took a photograph of the
22 outside of the establishment and noticed that

1 they were not in violation of the signage in the
2 window, however once going inside of the
3 establishment and in efforts to conduct a
4 regulatory inspection I noticed -- I was informed
5 there was no ABC manager or owner on the premises
6 at the time that the establishment was open.

7 MR. ADAMS: So, now just backing you up a
8 little bit, so once you got to the -- okay, let
9 me ask you this question: As the result of your
10 investigation, did you complete any written
11 information to go along with your investigation?

12 INVESTIGATOR LEFTWICH: Yes, I completed a
13 case report.

14 MR. ADAMS: I would like to approach the
15 witness to provide them a case report which is
16 marked as District exhibit #1.

17 CHAIRPERSON ANDERSON: Do they currently have
18 a copy of this?

19 MR. ADAMS: I'll provide a copy.

20 CHAIRPERSON ANDERSON: Sure.

21 MR. ADAMS: This is the case report which is
22 marked for identification purposes as District

1 Exhibit #1. I would like to approach the
2 witness.

3 CHAIRPERSON ANDERSON: Sure, go ahead please.

4 MR. ADAMS: Mr. Leftwich, do you recognize
5 the document that's before you right now?

6 INVESTIGATOR LEFTWICH: Yes, I do.

7 MR. ADAMS: How do you recognize the
8 document?

9 INVESTIGATOR LEFTWICH: This is the case
10 report along with the exhibits that I submitted.

11 MR. ADAMS: And just going through this, on
12 the second page of this there is a signature. Do
13 you recognize the signature?

14 INVESTIGATOR LEFTWICH: Yes, the signature
15 next to the printed name Vernon R. Leftwich is my
16 signature.

17 MR. ADAMS: On the third page of exhibit #1
18 states this is a regulatory inspection. Do you
19 recognize that?

20 INVESTIGATOR LEFTWICH: Yes, this is a
21 regulatory inspection that I completed.

22 MR. ADAMS: Okay, in terms of the form, you

1 completed this form?

2 INVESTIGATOR LEFTWICH: Yes.

3 MR. ADAMS: Is this a true and accurate
4 representation of the case report that you
5 completed last year?

6 INVESTIGATOR LEFTWICH: Yes, it is.

7 MR. ADAMS: All right. Mr. Chairman I'd like
8 to move what's marked as the District's Exhibit
9 #1 into evidence.

10 CHAIRPERSON ANDERSON: Do you have a problem
11 with this document being moved into evidence,
12 ma'am?

13 MS. MAMO: Yes, I do.

14 CHAIRPERSON ANDERSON: What's the nature of
15 the objection?

16 MS. MAMO: The witness, she couldn't come.

17 CHAIRPERSON ANDERSON: No, no, I'm not there
18 yet. What I'm asking is that the document she
19 has in front of her, can you show her the
20 document, please? Mr. Adams would like to
21 introduce this into -- to move this into
22 evidence. Do you have a problem with moving this

1 document into evidence?

2 MS. MAMO: No.

3 CHAIRPERSON ANDERSON: All right, thank you.

4 So moved.

5 MR. ADAMS: Okay, so when you first arrived
6 there you say you went there with an employee
7 from DCRA to do the windows inspections. What
8 did you first observe from the outside?

9 INVESTIGATOR LEFTWICH: From the outside of
10 the establishment I observed that there was --
11 that the amount of signage that they had in their
12 window was in accordance with the law, so they
13 were not in violation of having more than 25% of
14 their window covered by advertising of alcoholic
15 beverages.

16 MR. ADAMS: From outside of the establishment
17 could you see inside and see if anyone was inside
18 the establishment?

19 INVESTIGATOR LEFTWICH: I do not recall
20 specifically, but I do know that there was open
21 sign.

22 MR. ADAMS: There was an open sign?

1 INVESTIGATOR LEFTWICH: Yes.

2 MR. ADAMS: Then at some point there became a
3 point where you entered the establishment?

4 INVESTIGATOR LEFTWICH: Yes.

5 MR. ADAMS: Upon entering the establishment,
6 what did you observe inside the establishment?

7 INVESTIGATOR LEFTWICH: First we opened the
8 door so the door was open and there were -- I
9 don't know exactly how many -- but I knew that
10 there were other people inside the establishment,
11 costumers, and there was a young lady and they
12 have -- or at least at the time -- the counter
13 area is enclosed in, like, a Plexiglass almost.
14 So, there was a young lady that was inside as
15 well as myself, as well as the DCRA investigator
16 asked to speak with the person that was in charge
17 and specifically asked for the ABC manager or
18 owner, and the young lady informed me that she
19 was not the ABC manager and that the owner was
20 not there.

21 MR. ADAMS: Okay, so you spoke to the person
22 and what -- did you ask why or did she provide an

1 explanation for why the owner was not there?

2 INVESTIGATOR LEFTWICH: She informed me that
3 she wasn't supposed to open the store without the
4 owner, yet someone needed to use the ATM machine,
5 and she then called the owner and at that time
6 she informed me that due to extenuating
7 circumstances something came up as to why the
8 owner could not be there but she was on her way.
9 I did get on the telephone with the owner, I just
10 informed the employee to inform the owner that
11 they were in violation by not having an owner or
12 ABC manager there, and then went to explain to
13 the employee the steps to take to obtain an ABC
14 manager's temporary and permanent license.

15 MR. ADAMS: And so in looking at your report,
16 the employee named, Mekedes Bekele, who is that
17 in relation to your narrative?

18 INVESTIGATOR LEFTWICH: She is the employee
19 that was there at the time of the regulatory
20 inspection.

21 MR. ADAMS: And are you familiar with the
22 operation hours of this establishment?

1 INVESTIGATOR LEFTWICH: Yes, based on the
2 time printed on their license their operation
3 hours are from 9:00 a.m. to 10:00 p.m.

4 MR. ADAMS: Can you tell us whether or not
5 when you were at the establishment, was that
6 within or outside of their hours of operation?

7 INVESTIGATOR LEFTWICH: It was within their
8 hours of operation.

9 MR. ADAMS: I have no further questions.

10 CHAIRPERSON ANDERSON: Ms. Mamo do you have
11 any questions that you have of the investigator?

12 MS. MAMO: Can I ask that this guy ask for
13 me?

14 CHAIRPERSON ANDERSON: Who is he? Who is he?
15 Why do you need him to speak on your behalf? Ask
16 your behalf? Who is he?

17 MS. MAMO: He is family friend. Can't I have
18 somebody to ask on my behalf?

19 CHAIRPERSON ANDERSON: So, are you saying
20 that he is your representative? Is that what
21 you're saying, that he's representing you today?
22 Is that what you're saying?

1 MS. MAMO: Please, yes.

2 CHAIRPERSON ANDERSON: I need you to tell me
3 who he is.

4 MS. MAMO: I already said he's a family
5 friend.

6 CHAIRPERSON ANDERSON: No, I need her to tell
7 me that he is her representative, that he's
8 representing her here today at this hearing.

9 MS. MAMO: May I say it in English?

10 CHAIRPERSON ANDERSON: Say it whatever way
11 she wants to.

12 MS. MAMO: Okay. Can he speak on behalf of
13 me?

14 MS. MAMO: Isn't the interpreter here to do
15 the interpretation?

16 CHAIRPERSON ANDERSON: I just want her to
17 tell me what I just said.

18 MS. MAMO: So, what should I say?

19 CHAIRPERSON ANDERSON: I need her to tell me
20 that the person, the family friend that she is
21 referencing, that he is her representative today
22 and that she is authorizing him to speak on her

1 behalf.

2 MS. MAMO: I authorize that he be my
3 representative for today.

4 CHAIRPERSON ANDERSON: That's fine. I just
5 want to get some clarification before I ask.
6 Will he -- is he a witness in this case for you,
7 today?

8 MS. MAMO: A witness? No, he is not.

9 CHAIRPERSON ANDERSON: All right, fine. Go
10 ahead, sir. Do you have any questions of the
11 investigator?

12 MR. STEFORCE: Yes. First, how are you this
13 afternoon?

14 INVESTIGATOR LEFTWICH: I'm well, how are
15 you?

16 MR. STEFORCE: Pretty good. Sorry for the
17 whole misunderstanding. Like I said last time --

18 CHAIRPERSON ANDERSON: You're asking --

19 MR. STEFORCE: Right, I'm just trying to
20 explain.

21 CHAIRPERSON ANDERSON: She's asking -- as
22 your representative you're asking questions of

1 the inter -- I'm sorry, of the investigator based
2 on the questions that were just asked by Mr.
3 Adams.

4 MR. STEFORCE: When you say this for the
5 attorney, when he ask you you were there by
6 10:20, is that right?

7 INVESTIGATOR LEFTWICH: Yes.

8 MR. STEFORCE: You say that on your report?

9 INVESTIGATOR LEFTWICH: Yes, approximately.

10 MR. STEFORCE: Yeah. When you get to the
11 premises, was the premises open or closed?

12 INVESTIGATOR LEFTWICH: The door itself --

13 MR. STEFORCE: No, the lady she open the
14 business or you get there before there -- before
15 she open the door?

16 MR. ADAMS: Objection. I think there's two
17 questions in front of him at this point. He was
18 -- the witness was trying to answer the first
19 question.

20 CHAIRPERSON ANDERSON: All right, so --

21 MR. STEFORCE: He said he was there --

22 CHAIRPERSON ANDERSON: No, we're not -- I'm

1 just saying just ask him one question at a time,
2 that's all.

3 MR. STEFORCE: Okay. When you got there the
4 store was opened or closed?

5 INVESTIGATOR LEFTWICH: The establishment was
6 open. The physical door itself was closed.

7 MR. STEFORCE: Okay. So, the big door wasn't
8 open, only the entrance door was open but not the
9 window, is that right? You said you were there
10 for investigation to see if there was a sign on
11 the window which by law 25% has to be visible.
12 So, you were there to investigate that.

13 INVESTIGATOR LEFTWICH: Yes.

14 MR. STEFORCE: So, when you get there, that
15 window, to see that, you said you saw there's
16 nothing, but the establishment so you entered the
17 store?

18 INVESTIGATOR LEFTWICH: Yes.

19 MR. STEFORCE: So, which door did you see
20 open? You said you saw the open sign?

21 INVESTIGATOR LEFTWICH: The door. The whole
22 thing was open. I don't know if you have some

1 type of covering that closes your entire door?

2 MR. STEFORCE: Yes, the door had two -- I
3 don't know if you remember, it had one actual
4 entrance door and a big window, yes?

5 INVESTIGATOR LEFTWICH: Yes.

6 MR. STEFORCE: Okay, so which door was open?

7 INVESTIGATOR LEFTWICH: All of it was open.

8 MR. STEFORCE: All of it open?

9 INVESTIGATOR LEFTWICH: Yes.

10 MR. STEFORCE: Okay. And you say open sign
11 was on?

12 INVESTIGATOR LEFTWICH: Yes.

13 MR. STEFORCE: They don't have no open sign.

14 INVESTIGATOR LEFTWICH: Okay.

15 MR. STEFORCE: And they didn't open the door.

16 MR. ADAMS: Objection. There's no question
17 for the witness.

18 MR. STEFORCE: Okay.

19 CHAIRPERSON ANDERSON: You need to ask it in
20 -- it's not argumentative, just you need to ask
21 him a question.

22 MR. STEFORCE: Okay. And you say, when you

1 get in the business there was a couple of people
2 there.

3 INVESTIGATOR LEFTWICH: Yes.

4 MR. STEFORCE: Okay. And did you show your
5 badge to her when you get there?

6 INVESTIGATOR LEFTWICH: Yes, my badge is
7 hanging around my neck when I enter
8 establishments.

9 MR. STEFORCE: Okay. When can I ask -- today
10 she --

11 CHAIRPERSON ANDERSON: We haven't gotten
12 there yet, so you're still --

13 MR. STEFORCE: -- okay.

14 CHAIRPERSON ANDERSON: -- at this juncture
15 you can mention that to me when she decides to do
16 her case. At this juncture, you are questioning
17 the witness based on his testimony so do you have
18 any other questions of him?

19 MR. STEFORCE: Okay. When you get inside you
20 said somebody was using the ATM?

21 INVESTIGATOR LEFTWICH: No, I did not say
22 that.

1 MR. STEFORCE: You didn't say somebody was
2 using the ATM?

3 INVESTIGATOR LEFTWICH: The employee informed
4 me that she opened the store because someone
5 needed to use the ATM. Did I physically see
6 someone at the ATM machine? I can't say that I
7 did.

8 MR. STEFORCE: Okay. But you saw a couple of
9 people in the store?

10 INVESTIGATOR LEFTWICH: Yes, sir. Myself and
11 the DCRA investigator were not the only two
12 people in the establishment.

13 MR. STEFORCE: Okay. I don't have any more.

14 CHAIRPERSON ANDERSON: You don't have any
15 other questions? Are there any questions to Mr.
16 Leftwich by any board members? Mr. Alberti?

17 MR. ALBERTI: So, you said there were other
18 people in the store, do you remember
19 approximately how many?

20 INVESTIGATOR LEFTWICH: No, I do not recall.
21 This was March of 2016.

22 MR. ALBERTI: Do you recall anything about

1 what they were doing in the store?

2 INVESTIGATOR LEFTWICH: They were at the
3 front of the establishment so I do not recall
4 people being -- walking around in the back. When
5 you walk into where the checkout area is, so
6 there were people in that area. I know because I
7 had to walk around those people and then talk to
8 the owners and talk to the employee. We had to
9 wait until she was done with her customers.

10 MR. ALBERTI: What do you mean you had to
11 wait until she was done with her customers?

12 INVESTIGATOR LEFTWICH: I personally don't
13 interfere if the establishment employees or
14 owner, whoever is there, are doing business or
15 speaking to their customers, I do not
16 automatically just interject. I'll wait until
17 they're done.

18 MR. ALBERTI: But why did you -- do you
19 remember why you assumed they were customers?

20 INVESTIGATOR LEFTWICH: I mean, they were
21 there patronizing. They weren't there working.
22 There was no signs or evidence that they were

1 working in any capacity in the store.

2 MR. ALBERTI: But they were at the front
3 customer area? What is at the front customer
4 area? Where is the checkout counter?

5 INVESTIGATOR LEFTWICH: Upon entry to the
6 establishment, a few feet into the establishment,
7 the cash-out area is to your right.

8 MR. ALBERTI: Was there anyone standing in
9 front of the cashout area?

10 INVESTIGATOR LEFTWICH: Attempting to
11 purchase something? I do not recall exactly
12 where people were stationed in the establishment.

13 MR. ALBERTI: But you said to me that you had
14 to wait for the employee to finish their
15 interaction with -- and I'm paraphrasing -- with
16 these other people before you could talk to her?

17 INVESTIGATOR LEFTWICH: Mm hmm.

18 MR. ALBERTI: What did that interaction look
19 like? That's what I'm trying to find out.

20 INVESTIGATOR LEFTWICH: Her interacting with
21 them, would either be talking to them or they
22 were getting something because there's a walkway,

1 so she could have been at one end of the enclosed
2 area, because it's not just a small box, there's
3 a whole area back there that she could talk walk
4 to and from?

5 MR. ALBERTI: So, this is sort of a leading
6 question -- so, did it appear to you that she was
7 interacting with them as if they were customers?

8 INVESTIGATOR LEFTWICH: Yes.

9 MR. ALBERTI: All right, I have no further
10 questions.

11 CHAIRPERSON ANDERSON: Any other questions by
12 any other board members? No? Ms. Mamo, do you
13 have any questions of the investigator based on
14 the questions that were asked by the board?

15 MR. STEFORCE: Yes.

16 CHAIRPERSON ANDERSON: It's based on --

17 MR. STEFORCE: Yes.

18 CHAIRPERSON ANDERSON: Go ahead, sir.

19 MR. STEFORCE: You say there was customers
20 interacting with her by the register? Because
21 you say the register is right where you enter,
22 yes?

1 INVESTIGATOR LEFTWICH: So, when you walk up
2 to the establishment it's almost an L shape.
3 There's an area that's to your immediate right
4 and then there's a wall to your left, you take a
5 few steps forward and there's the enclosed area
6 where the cashier is, and then there's the rest
7 of the store. Everything is -- everything's
8 behind that -- I don't know if it's Plexiglas,
9 bullet-proof glass, but you have to go inside.
10 She had to let us back into inside of that area
11 to even communicate with her. That's where she
12 was on the phone with the owner.

13 MR. STEFORCE: Yeah, but you say she have to
14 walk. There's only one register it's in the
15 middle, but you say when you walk to your right
16 she's talking to people on your right side, they
17 might be working or purchasing.

18 MR. ADAMS: Objection, is there a question?

19 MR. STEFORCE: Yeah, you say that the
20 customers, there's the people there, they are
21 purchasing or just talking?

22 CHAIRPERSON ANDERSON: Mr. Leftwich, you have

1 to verbally --

2 INVESTIGATOR LEFTWICH: Yeah, I'm trying to -

3 -

4 CHAIRPERSON ANDERSON: All right, okay.

5 INVESTIGATOR LEFTWICH: -- because he's
6 asking the same question.

7 MR. STEFORCE: The way you describe the place
8 is not right because the place is not L-shaped
9 and that's what I'm trying to figure it out.
10 Because when you walk in the place on the left
11 side is the cooler, on the right side is the
12 Plexiglas, the whole thing is Plexiglas, there is
13 no L shape and that's what I'm -- I'm trying to
14 put where you see that L shape.

15 INVESTIGATOR LEFTWICH: So, your first
16 question, there was this area, that whole area is
17 enclosed, that area to walk back and forth to
18 interact with anyone that's at any part of the --

19 MR. STEFORCE: In that area?

20 INVESTIGATOR LEFTWICH: -- in that area.

21 MR. ADAMS: I'm sorry, the witness is still
22 answering. I just want the witness --

1 INVESTIGATOR LEFTWICH: And could they have
2 been workers? Again, like I answered before,
3 there was no indication to me that these were
4 workers of any kind, but individuals that were
5 inside of the establishment and can you repeat
6 your last question?

7 MR. STEFORCE: My last question is you say
8 you have to walk through L shape to the cash
9 register, so if you come into -- on the right
10 side of the door, which L shape you walk? From
11 the door to the end or from the end to the
12 middle?

13 INVESTIGATOR LEFTWICH: When you enter to --
14 the way that I recall you enter into the
15 establishment there's a wall -- there's something
16 -- there's nothing but store, establishment,
17 things whether it be the cooler or a wall over to
18 your left and the enclosed area is to your right
19 and that's where the young lady employee was,
20 behind that wall as well as the other individuals
21 that were inside of the establishment.

22 MR. STEFORCE: They were outside of the

1 Plexiglas or inside?

2 INVESTIGATOR LEFTWICH: They were outside of
3 the Plexiglas. She was the only person inside of
4 the Plexiglas until she allowed myself and the
5 DCRA investigator behind the Plexiglas.

6 MR. STEFORCE: I don't have any more
7 questions.

8 CHAIRPERSON ANDERSON: Mr. Adams?

9 MR. ADAMS: No further questions.

10 CHAIRPERSON ANDERSON: I know that I had my
11 change to ask a question, but I want to ask a
12 question because I'm confused. So, Mr. Leftwich,
13 when you went to the establishment, did you just
14 walk in or did you have to ring a buzzer for
15 someone to let you in? Can you just describe it?
16 Describe that for me, please.

17 INVESTIGATOR LEFTWICH: I stood outside of
18 the establishment and I took a photograph of the
19 outside of the establishment because that was a
20 part of my assigned duty. And after I was done
21 taking the photograph I walked to the front door
22 and opened the door and went inside the

1 establishment and proceeded to ask for the ABC
2 manager or owner once the time was appropriate.

3 CHAIRPERSON ANDERSON: All right, thank you.

4 MR. ALBERTI: Can I ask? This is -- I'm
5 sorry, Mr. Leftwich.

6 CHAIRPERSON ANDERSON: Mr. Alberti.

7 MR. ALBERTI: Earlier there was a statement
8 about a door that the employee would not open for
9 you. Is that correct?

10 INVESTIGATOR LEFTWICH: No. If I said that,
11 I misspoke.

12 MR. ALBERTI: Well, there was a statement
13 about -- the employee said something about a door
14 that she could not open without the owner.

15 INVESTIGATOR LEFTWICH: The establishment.
16 She informed me that she was not supposed to open
17 the establishment until the owner arrived. This
18 was prior to her having the owner on the phone.
19 She just said to me 'I wasn't supposed' -- or I
20 said 'there's supposed to be an ABD manager or
21 owner on duty at all times,' and she admitted to
22 me that the owner or ABC manager was not there,

1 she wasn't supposed to open the store but
2 somebody needed to use the ATM and then she
3 proceeded to call the owner on the phone.

4

5 MR. ALBERTI: Okay, thank you, that clears up
6 my confusion. Thank you.

7 CHAIRPERSON ANDERSON: And I'm going to --
8 since I opened up the door -- based on the
9 specific two questions that were just asked, do
10 you have any questions of Mr. Leftwich? No? Mr.
11 Adams?

12 MR. ADAMS: I do not have any further
13 questions.

14 CHAIRPERSON ANDERSON: All right, fine, thank
15 you. Thank you, Mr. Leftwich, for your
16 testimony. You can step down. Does the
17 government have any other witnesses?

18 MR. ADAMS: The government has no further
19 witnesses and rests its case.

20 CHAIRPERSON ANDERSON: All right, thank you.
21 Ms. Mamo, how do you plan to represent -- I'm
22 sorry -- how do you plan to defend this action?

1 MR. STEFORCE: The lady he was saying was
2 just a cleaning lady, the one we're talking
3 about, Ms. Mekedes, she cannot come, but she
4 wrote a letter and notarized it -- it's signed
5 and notarized by her.

6 CHAIRPERSON ANDERSON: Would you show it to
7 Mr. Adams, please?

8 MR. STEFORCE: That's from her. She couldn't
9 come because she have work and it's not right
10 time for her. She just wrote it yesterday
11 because she couldn't come.

12 CHAIRPERSON ANDERSON: What does the letter
13 state?

14 MR. ADAMS: My general objection is that, you
15 know, I mean they won't have a live witness, I
16 don't really get to cross examine.

17 CHAIRPERSON ANDERSON: First of all, I don't
18 know what the document states.

19 MR. ADAMS: It's a witness testimony. Okay.

20 CHAIRPERSON ANDERSON: You're getting your
21 opportunity, Mr. -- first of all I have to give
22 it to them. Then I'm going to have you --

1 UNKNOWN: Board members talking with
2 Chairman.

3 CHAIRPERSON ANDERSON: What's the document?
4 I'm not looking at it currently, so what's the
5 document?

6 MR. STEFORCE: The document states I told her
7 she have to appear and she have to be a witness
8 but she say that she have a job and she have a
9 child, she cannot come, and we ask her if she can
10 write a statement or write something says what
11 happened that day so she can witness it, so the
12 board and the other party can understand what's
13 going on, because she cannot come and give her
14 testimony so I ask her if she can write her
15 testimony and sign it and notarize it and she
16 dropped it yesterday for us.

17 CHAIRPERSON ANDERSON: Mr. Adams?

18 MR. ADAMS: My general objection to any
19 written affidavit for a hearing of this nature is
20 that the district being the opposing party does
21 not get a chance to cross examine or ask any
22 questions of the witness, so regardless of the

1 content of the affidavit we object to any
2 consideration of it. I mean, the establishment
3 had a chance to bring the witness here. So, I
4 understand that there's different circumstances,
5 but at the same time there's no way for us to be
6 able to test the veracity of the statements that
7 are being made in an affidavit.

8 CHAIRPERSON ANDERSON: All right. Based on -
9 - as I stated last week, it's the burden of the
10 licensee to bring a witness that they think can
11 defend their position and it's unfortunate the
12 witness cannot be here in person, but I cannot
13 allow the statement to be included because it is
14 unfair to the government since the government
15 cannot cross examine a piece of paper, so I don't
16 know what the statements are because I have not
17 looked at the statement but, unfortunately, the
18 government is in a position that when we have
19 these hearings you are supposed to cross examine
20 the witness as you see Mr. Leftwich was there,
21 you had an opportunity to ask him questions, the
22 board has an opportunity to ask questions, and we

1 cannot, neither the government nor the board can
2 cross examine a piece of paper so for that I will
3 not allow -- the board will not consider this
4 documentation.

5 MR. STEFORCE: Okay.

6 CHAIRPERSON ANDERSON: So, are there -- is
7 there another witness that you want to call?

8 MR. STEFORCE: That's the only thing we have.
9 That's the only person that was there, so --

10 CHAIRPERSON ANDERSON: Well, then, what is
11 her -- so, what's the representation of the
12 business? How do you plan to defend yourselves?

13 MR. STEFORCE: I mean -- I should speak
14 through

15 CHAIRPERSON ANDERSON: I'm sorry?

16 MR. STEFORCE: I should

17 CHAIRPERSON ANDERSON: What is it that she
18 wants to do? Just tell me what it is that she
19 wants.

20 MR. STEFORCE: She's not an employee, she
21 doesn't have a passport.

22 CHAIRPERSON ANDERSON: Hold on -- hold on --

1 hold on. Stand up for me, please. Can you raise
2 your right hand? Do you swear or affirm to tell
3 the truth?

4 MS. MAMO: Yes.

5 CHAIRPERSON ANDERSON: All right. Okay,
6 fine. You can sit. Why don't you say what you
7 need to say.

8 MS. MAMO: She's not an employee. She's my
9 best friend. She helps me in the morning; before
10 she goes to work, she cleans my establishment.
11 She doesn't have a key for the register. She
12 doesn't have a passport for the [inaudible
13 1:38:35]. She doesn't know anything. So, she
14 just stays there until I come, and then when I
15 come then she goes. She leaves the business.

16 CHAIRPERSON ANDERSON: Is there anything else
17 that she wants to say?

18 MS. MAMO: That's it, but if you want to hear
19 from her, if we could continue this matter for
20 another month then I would arrange for her to
21 come here and testify.

22 CHAIRPERSON ANDERSON: Mr. Adams?

1 MR. ADAMS: I'll object to that. I mean
2 we're here, this is our second week here so I
3 think, you know, either they have a defense or
4 they don't have a defense and so I will object to
5 continuing the matter.

6 CHAIRPERSON ANDERSON: I'm not inclined to
7 grant that based on the fact that this hearing
8 was scheduled for last week, we postponed it for
9 a week. The information -- it was made known
10 that the individual worked, I did make it known
11 that if you have a witness it is incumbent upon
12 you to get the witness to come -- to appear -- to
13 help substantiate your case and so, no, we would
14 not postpone this. So, is there anything else
15 that you -- any other representation you need to
16 make?

17 MS. MAMO: Are they going to fine us?

18 CHAIRPERSON ANDERSON: We haven't gotten
19 there yet. You're still presenting your case and
20 then -- you're presenting your case so this is
21 your opportunity to tell -- explain to the board
22 from your perspective what happened. Is he

1 speaking for you? Where are we now?

2 MR. STEFORCE: Yes, sir.

3 MR. ADAMS: Who is saying yes? Mr.

4 Chairman, there's one witness, this is still her
5 witness testimony. Unless the representative has
6 a motion, I don't believe the representative can
7 actually testify.

8 CHAIRPERSON ANDERSON: I thought maybe he
9 wants to ask her a question, I don't know.

10 MR. STEFORCE: I'm not trying to testify or
11 I'm not trying to be a witness.

12 CHAIRPERSON ANDERSON: I think he's trying to
13 figure out what's going on.

14 MR. STEFORCE: You ask us from our point of
15 view. You just said what do we think of the
16 incident.

17 CHAIRPERSON ANDERSON: That's what you need
18 to tell us from your point of view. The
19 government has presented its case --

20 MR. STEFORCE: Yeah, that's what I was --

21 CHAIRPERSON ANDERSON: -- and you're
22 presenting your case and so you need to tell us

1 from your point of view what happened.

2 MR. STEFORCE: From our point of view. I
3 spoke with the witness so many times.

4 MR. ADAMS: Hold on a second -- now this is
5 where we're getting into.

6 CHAIRPERSON ANDERSON: Right, and so you
7 can't do that.

8 MR. ADAMS: Right. It would have to come
9 through the witness who is actually still on the
10 stand.

11 CHAIRPERSON ANDERSON: Right, so you can't --
12 you can't state that 'I spoke with the witness
13 and this is what the witness says.' I think.

14 MR. ADAMS: Well, let's use a separate
15 witness.

16 MR. STEFORCE: 'Cause nobody was there except
17 her at the moment witnessing between him and her.

18 CHAIRPERSON ANDERSON: Mr. Silverstein, I'm
19 just trying to get some clarification, I'm not
20 considering what's being said. She needs to --
21 Ms. Mamo needs to tell me what happened from her
22 perspective. I mean there are -- you can ask her

1 some questions. Based on her testimony it's my
2 understanding that the person who was there
3 contacted her and said that she was delayed. So,
4 maybe you can ask her a question for her to
5 explain to the board what was that about? So,
6 you can ask her a question and she can answer it.

7 MR. STEFORCE: I'm asking her.

8 CHAIRPERSON ANDERSON: So, you ask her the
9 question and the translator needs to speak to us
10 if she's -- so, why don't you ask her the
11 question in English so we'll know what the
12 question is and the translator can translate it
13 to her.

14 MR. STEFORCE: When she call you, when she
15 tell you what happened, what did she say?

16 MS. MAMO: She called me and she said the
17 police came in and they showed me their badge and
18 she said she had let one customer use the ATM and
19 that customer used the ATM. In fact, she thought
20 it was the police. She didn't think it was a
21 customer. So, it was a customer who came in
22 following them, otherwise she was not intending

1 to serve the customer. She cannot serve any
2 customer in the establishment and she never
3 served in the establishment and she cannot do
4 that because she doesn't have the necessary
5 resources to do that.

6 CHAIRPERSON ANDERSON: Do you have another
7 question you want to ask sir?

8 MR. STEFORCE: Did she open the door and the
9 second door?

10 MS. MAMO: She open, she came in what she
11 does is she cleans and then she leaves. She
12 cleans the establishment, the window and the
13 other parts and then she leaves.

14 MR. STEFORCE: Did she turn on the open
15 signs?

16 MS. MAMO: No, she did not. It is me who
17 does that.

18 CHAIRPERSON ANDERSON: Do you have any other
19 questions? Do you have any other representation
20 to make?

21 MS. MAMO: No, sir.

22 CHAIRPERSON ANDERSON: Mr. Adams, do you have

1 any questions you want to ask of the licensee?

2 MR. ADAMS: Good afternoon. First of all,
3 bottom line, your establishment does not have an
4 ABC manager that's licensed by the board, is that
5 correct?

6 MS. MAMO: No, there is no manager.

7 MR. ADAMS: All right. And so you were not
8 at --

9 CHAIRPERSON ANDERSON: Miss, miss, miss --
10 he's asking you a question and when he asks you
11 the question, you need to answer. You can't look
12 at him to get approval. So, he's asking you a
13 direct question and so you have to answer
14 directly without looking at your representative
15 because you are a witness.

16 MR. STEFORCE: The interpretation wasn't
17 right, that's why she looked at me.

18 MR. ADAMS: You have to deal with this at
19 some point.

20 CHAIRPERSON ANDERSON: All right.

21 MR. ADAMS: We can't do this.

22 CHAIRPERSON ANDERSON: Hold on -- hold on --

1 hold on. I have the interpreter informing to say
2 that he will faithfully interpret the
3 proceedings. He has given us his assurance, and
4 so I have to go with the information that's being
5 interpreted by him. If you believe then as a
6 representative you can ask -- well, she's a
7 witness right now so you have to stay out of it
8 because she is a witness. She's under oath,
9 she's a witness. If she doesn't understand or if
10 she doesn't think that -- my view is that she
11 does speak some English and so if she doesn't
12 understand then that's between her and the
13 interpreter. You can't -- she can't look at you
14 to say 'I don't understand this,' okay sir?

15 MR. STEFORCE: I'm not trying to answer it.
16 When he ask the question, the interpreter is not
17 telling her the right thing. He's interpreting
18 it, but not the right directly. You see this is
19 very hard when you interpret it word by word it
20 doesn't make it right, you have to interpret --

21 CHAIRPERSON ANDERSON: But I don't -- but
22 what I'm saying, okay, what I'm saying, if she

1 doesn't understand, if he's literally
2 interpreting and if it's incorrect, then she
3 needs to clarify it with him. She cannot look at
4 you for you to clarify it to her, that's all I'm
5 saying.

6 MR. STEFORCE: Yes.

7 CHAIRPERSON ANDERSON: But so she needs to
8 state -- remember last week when I was here she
9 said she could speak English although you could
10 speak it better than her, but she said she could
11 speak English, so if there's an issue with the
12 interpretation then she needs to question him and
13 say 'well, that's not quite what I'm hearing.' I
14 can't have her look at you and you clarifying it
15 for her. So, you can't do that, sir. And as her
16 representative then you can object to say the
17 interpreter is not interpreting, but that's not
18 what you did, so while this is going on, if he is
19 not interpreting it correctly then you can object
20 and bring that to my attention.

21 MR. STEFORCE: Okay.

22 CHAIRPERSON ANDERSON: She can't look at you,

1 though, and do that. You need to be following
2 what's going on and if he is not interpreting it
3 correctly, then you need to object and clarify
4 the record for that as her representative.

5 MR. STEFORCE: Okay.

6 CHAIRPERSON ANDERSON: Because she's a
7 witness and that it works is that you are helping
8 her testify. Go ahead, Mr. Adams.

9 MR. ADAMS: Ms. Mamo, you are the sole owner
10 of Montana Liquors?

11 MS. MAMO: Yes.

12 MR. ADAMS: And so you did receive a call on
13 March 1st from Ms. Mekele, correct?

14 MS. MAMO: Yes.

15 MR. ADAMS: And so she called you, she called
16 you from inside of the partition area of the
17 establishment, is that correct?

18 MS. MAMO: Yes.

19 MR. ADAMS: All right. And, also, so your
20 establishment's hours permit you to open at 9:00
21 a.m., correct?

22 MS. MAMO: Yes.

1 MR. ADAMS: So, the time that Mr. Leftwich
2 says that he was at your establishment that was
3 about an hour and a half after you were allowed
4 to open, correct?

5 CHAIRPERSON ANDERSON: I didn't hear an
6 answer.

7 MS. MAMO: Yes.

8 MR. STEFORCE: Yes.

9 CHAIRPERSON ANDERSON: Sir, remember you're
10 interpreting for her. I expect you to tell me
11 what her answers are.

12 MR. STEFORCE: Mr. Chairperson, she said "Mm
13 hmm" so I didn't hear anything, that's why I
14 didn't interpret. And that's why I said I want
15 an answer, that's why. I just want to make the
16 record clear -- it's being transcribed.
17 Someone's picking it up "Mm hmm" doesn't mean
18 yes, so that's why I need her to say yes, but
19 someone to say yes. Okay.

20 MR. ADAMS: So that means that your, that Ms.
21 Mekele, had access to the inside partition area,
22 correct?

1 MS. MAMO: No.

2 MR. ADAMS: I paused, I --

3 MR. STEFORCE: I'm still objecting the
4 translation.

5 MR. ADAMS: Okay.

6 CHAIRPERSON ANDERSON: That's --

7 MR. STEFORCE: I'm objecting the translation.

8 MR. ADAMS: Good point.

9 MR. STEFORCE: His question was he's asking
10 her if she is inside the separate place, he's
11 translating her 'you let them in the separate
12 place' see -- he's telling her different thing
13 and she -- that's what I'm objecting to. His
14 question is different -- his interpretation is
15 different. That's what I'm objecting.

16 CHAIRPERSON ANDERSON: So, what is it -- what
17 is the question?

18 MR. STEFORCE: I'm objecting because he's not
19 saying it right.

20 CHAIRPERSON ANDERSON: Sure. So, what is --
21 so, what's the question again? I'm sorry.

22 MR. STEFORCE: He ask her if she work in that

1 compartment area which is behind the Plexiglas.

2 MR. ADAMS: Actually the question was on that
3 day did she -- that means that she had access to
4 inside the partition area.

5 MR. STEFORCE: Yes, that is the question but
6 he asking her.

7 CHAIRPERSON ANDERSON: Wait. So, let him ask
8 the question and is the translation correct?
9 We're waiting for an answer.

10 MS. MAMO: From who, from me?

11 CHAIRPERSON ANDERSON: From you, ma'am, the
12 government just asked you a question and it was
13 translated and so I want to make sure that the
14 correct question was translated to you. Now, if
15 your representative is saying to me that the
16 question was not properly translated, that's
17 fine, but from what I've heard you now have the
18 question, so I need you to answer the question.

19 MS. MAMO: The question he asked me is
20 whether I let them in or not.

21 MR. ADAMS: I can restate the question.

22 CHAIRPERSON ANDERSON: Go ahead.

1 MR. ADAMS: The question was, on that day,
2 that meant that Ms. Mekele had -- was able to
3 access the inside partition area of the
4 establishment. Is that correct?

5 MR. STEFORCE: The interpreter requests a
6 repeat of the question.

7 MR. ADAMS: Okay, sure. On that day that Ms.
8 Mekele, who is the cleaning lady, or is claiming
9 to be the cleaning lady, that she had access to
10 the inside partitioned area of the establishment.
11 Is that correct?

12 MS. MAMO: I cannot say whether the partition
13 was open or not, I had taken away.

14 CHAIRPERSON ANDERSON: Hold on a minute.
15 What's wrong with the translation?

16 MR. STEFORCE: He's ask -- he didn't ask them
17 to let them in, the question is not that. He's
18 telling her 'I -- we ask her to let us in.' He
19 didn't ask that. He's asking her if she has
20 access to that place. That's the question. Yes?
21 That's your question. Ms. Mekele, did she have
22 access to that partition area? That's your

1 question.

2 MR. ADAMS: That's my question.

3 MR. STEFORCE: That's not the way he's
4 interpreting. He interpreted to her is "did you
5 let them in?" or "did she let them in?"

6 MR. ADAMS: If I'm not mistaken, the record
7 does reflect that she stated yes, she had a key.

8 MR. STEFORCE: Yeah, because she understand
9 you better than this translator.

10 MR. ADAMS: That means if the -- if the
11 witness is able to understand my question and
12 she's already answered the question, then that
13 should be -- there's no point, the objection has
14 no point.

15 CHAIRPERSON ANDERSON: Because the witness --

16 MR. ADAMS: Because the witness understood
17 the question.

18 CHAIRPERSON ANDERSON: Right.

19 MR. ADAMS: Let's move along.

20 MR. STEFORCE: She does, but the way he
21 translated for her is she saying yes for two
22 questions at the same time.

1 MR. ADAMS: I'll say this: If I may, Mr.
2 Chairman, I understand that we'll be all day
3 talking about the interpretation and I'm not sure
4 if it's a stall tactic or not. Maybe, if they're
5 not able to figure things out and this case
6 doesn't bring an answer to a question, if they
7 want to file a motion after the hearing that
8 might be fine, but, I mean at this point the
9 question has already been answered and I think
10 we'll be here all day if we do this.

11 CHAIRPERSON ANDERSON: I believe that with
12 the reiteration of the questions and the answers
13 that my assumption -- and again, I'm assuming --
14 that we have finally gotten to the licensee what
15 the question is.

16 MR. ADAMS: All right. Now, earlier in -- I
17 apologize, Mr. Chairman. Can I proceed?

18 CHAIRPERSON ANDERSON: Go ahead.

19 MR. ADAMS: From earlier testimony you stated
20 that Ms. Mekele had no keys and no passwords,
21 correct?

22 MS. MAMO: I said for the register, not for

1 the door.

2 MR. ADAMS: Okay, well I don't think that
3 was clear, but okay. So, basically when you say
4 that she had no key, what you're saying is that
5 she had nothing for the register, is that
6 correct?

7 MS. MAMO: Yes.

8 MR. ADAMS: Okay. So, I'll present to you
9 what's marked as District Exhibit #2. This is a
10 photograph. This photograph is a representation
11 of the outside of your establishment, is that
12 correct?

13 MS. MAMO: Yes.

14 MR. ADAMS: And on the right side there's a
15 window here. It does have an open sign there, is
16 that correct?

17 MS. MAMO: Yes.

18 MR. ADAMS: All right. And there are --
19 there's a rollaway door there, correct? And
20 that's already rolled up, correct?

21 MS. MAMO: Yes.

22 MR. ADAMS: All right, very well.

1 MS. MAMO: I said yes.

2 MR. ADAMS: Okay. I have no further
3 questions for Ms. Mamo.

4 CHAIRPERSON ANDERSON: All right, thanks.
5 Does the board have any questions? You have a
6 question, Mr. Alberti?

7 MR. ALBERTI: I actually would like some
8 clarification on the exhibit.

9 CHAIRPERSON ANDERSON: There's no exhibit.
10 It's not in the record. He hasn't asked that it
11 be introduced. He just asked the questions, so
12 there's no exhibit. I'm sorry, hold on.

13 MR. STEFORCE: If he doesn't have it as an
14 exhibit, he bring her a picture asking her if she
15 have open sign and rolled up the window.

16 MR. ADAMS: Right.

17 MR. STEFORCE: That could be from any moment,
18 it doesn't mean that day. She say this for the
19 record she had open sign in the window.

20 CHAIRPERSON ANDERSON: So, what are you
21 objecting to, sir?

22 MR. STEFORCE: The question he ask her.

1 CHAIRPERSON ANDERSON: Well, it's too late,
2 you should have objected to it while the question
3 was being asked. The question was asked, it was
4 answered. You can't -- once the cat is out of
5 the bag you can't object to it. So, when the
6 question is asked you have to object to it. And
7 so what you could have done is to say 'as her
8 representative, let me see it' and then asked him
9 'what is this? When is it from?' Here where you
10 ask it, it's not a part of the record, it's not a
11 part of the -- he has not introduced it into
12 evidence so you can't object to it now because we
13 already -- the information is already out there,
14 okay? All right. I have a question. Do other
15 board members have questions? The question I'm
16 asking, why did she let somebody in the business?

17 MS. MAMO: Because they showed her a badge
18 and they told her that they were there and she
19 let them in because of that.

20 CHAIRPERSON ANDERSON: No. The testimony was
21 that there were other people in the store. So,
22 who were those other people in the store?

1 MS. MAMO: When they showed her the badge she
2 let them in and somebody else also followed them.
3 She thought he was with them. And it was that
4 third person who used the ATM.

5 CHAIRPERSON ANDERSON: All right. What time
6 does your store open? What time does your store
7 open?

8 MS. MAMO: 9:00 to 10:00.

9 CHAIRPERSON ANDERSON: Is it open 9:00 to
10 10:00 or is it open at 9:00? What time was your
11 store open? On March 1, 2016, what time was it
12 open?

13 MS. MAMO: 10:30.

14 CHAIRPERSON ANDERSON: I'm sorry?

15 INTERPRETER: 10:30.

16 CHAIRPERSON ANDERSON: 10:30. Where were you
17 at 10:30?

18 MS. MAMO: I was in the hospital because of
19 family emergency.

20 CHAIRPERSON ANDERSON: So, if the business
21 was open at 10:30, who was running the store?

22 MS. MAMO: I came at 10:30 to open the

1 business. It was me who opened it.

2 CHAIRPERSON ANDERSON: Are you understanding
3 what I'm saying? Because you're not making
4 sense. I'm sorry, Miss, you're not making sense
5 now, so either I'm not speaking English or the
6 interpreter is not interpreting what I'm saying
7 to you. So, let me ask you a question again. On
8 March 1st, 2016, what time did your business open
9 this day? What time did it open this day?

10 MS. MAMO: 10:30.

11 CHAIRPERSON ANDERSON: It opened at 10:30.
12 What time was your cleaning lady inside your
13 business on March 1st, 2016?

14 MS. MAMO: 10:00.

15 CHAIRPERSON ANDERSON: 10:00. Do you recall
16 the phone call from her on that day?

17 MS. MAMO: Yes, she called when they came in.

18 CHAIRPERSON ANDERSON: What time did she call
19 you?

20 MS. MAMO: 10:23.

21 CHAIRPERSON ANDERSON: And where were you at
22 10:23 when she called you?

1 MS. MAMO: I was on the way to open the
2 store.

3 CHAIRPERSON ANDERSON: You were called on the
4 way. Where? Where? Where were you on the way
5 from? Physically, where were you?

6 MS. MAMO: In Silver Springs.

7 CHAIRPERSON ANDERSON: You were in Silver
8 Springs?

9 MS. MAMO: Yes.

10 CHAIRPERSON ANDERSON: At 10:20 when she
11 called you?

12 MS. MAMO: I was in Silver Springs, I was
13 driving.

14 CHAIRPERSON ANDERSON: And it took you ten
15 minutes to get from Silver Springs to your
16 business on Montana Avenue?

17 MS. MAMO: I was at Piney Branch and Blair, I
18 remember it.

19 CHAIRPERSON ANDERSON: And it took you 10
20 minutes to get from Piney Branch and Blair to
21 1801 Montana Avenue Northeast?

22 MS. MAMO: Yes.

1 CHAIRPERSON ANDERSON: And so, if your store
2 is closed, why did she let somebody in the store?

3 MS. MAMO: Because they showed her a police
4 badge.

5 CHAIRPERSON ANDERSON: So, you told her that
6 if someone comes with a police badge she should
7 let them in the store?

8 MS. MAMO: That's why she called me, said she
9 opened to them, then she called me.

10 CHAIRPERSON ANDERSON: Now, at the time, was
11 there any door to your establishment open when
12 the police got there?

13 MS. MAMO: Yes.

14 CHAIRPERSON ANDERSON: What door was that?

15 MS. MAMO: Just one door, there is only one
16 door.

17 CHAIRPERSON ANDERSON: So, why was that door
18 open?

19 MS. MAMO: It was not open.

20 MR. ALBERTI: Just let it go.

21 CHAIRPERSON ANDERSON: No, I'm not letting it
22 go, I'm not letting it go, because I want to make

1 sure that the record is clear and I want to make
2 sure, Miss, that you're not playing with us up
3 here, okay? And so, let me ask you again, and
4 you're under oath. Okay, was the door unlocked,
5 any door to your establishment unlocked the
6 morning when the investigator came in the store?

7 MS. MAMO: She doesn't open the door because
8 she gets in and she locks it. That's how she
9 does the cleaning.

10 CHAIRPERSON ANDERSON: I have a question.
11 No, sir.

12 MR. ALBERTI: I want to ask a question.

13 CHAIRPERSON ANDERSON: Mr. Alberti?

14 MR. ALBERTI: So, I'm going to ask the same
15 question Mr. Anderson just asked. According to
16 what Ms. Mekele told you, was the front door --
17 was the front entrance door -- to the
18 establishment unlocked when the inspector
19 arrived?

20 MS. MAMO: She opened for them when they
21 showed her the badge.

22 MR. ALBERTI: That's not my question. Was

1 the door unlocked when the inspector arrived?

2 MS. MAMO: No. It was locked. She only
3 opened it because they showed her the badge.

4 MR. ALBERTI: Okay, thank you, no further
5 questions.

6 CHAIRPERSON ANDERSON: Mr. Adams, do you have
7 any questions based on the questions asked?

8 MR. ADAMS: I have no questions for re-cross.

9 CHAIRPERSON ANDERSON: As her representative,
10 sir, do you have any questions that you want to
11 ask her based on the questions that I asked?

12 MR. STEFORCE: Yes. All the questions you
13 asked the interpreter just took it a different
14 direction that's why she keep answering to you
15 different answers, but now it's cleared up and I
16 don't have a question.

17 CHAIRPERSON ANDERSON: I'm sorry, you say
18 what?

19 MR. STEFORCE: I don't have a question.

20 CHAIRPERSON ANDERSON: Thank you. Do you
21 rest?

22 MR. ADAMS: Mr. Chairman, the District just

1 has one witness for a redirect, a rebuttal
2 witness.

3 CHAIRPERSON ANDERSON: Sure.

4 MR. ADAMS: I'd like to call Mr. Leftwich
5 back to the stand.

6 CHAIRPERSON ANDERSON: Mr. Leftwich. You're
7 still under oath, sir. Go ahead.

8 MR. ADAMS: Mr. Leftwich, just very clearly,
9 when you entered the establishment can you tell
10 us whether a third party had to assist you to
11 enter the establishment or how did you enter the
12 establishment?

13 INVESTIGATOR LEFTWICH: Myself, as well as
14 the DCRA investigator, entered the establishment
15 freely. The DCRA's investigator actually entered
16 the establishment before me and I stood outside
17 of the establishment and took a photograph and
18 then I entered freely without knocking or waiting
19 into the establishment.

20 MR. ADAMS: I apologize as I only have one
21 copy of this. This is the exhibit and the
22 representative, would you like to take a look at

1 this?

2 MR. STEFORCE: Okay.

3 MR. ADAMS: Mr. Leftwich, do you recognize
4 the document in front of you?

5 INVESTIGATOR LEFTWICH: Yes, I do.

6 MR. ADAMS: And what is it?

7 INVESTIGATOR LEFTWICH: This is the
8 photograph that I took of the establishment the
9 morning that I went to the establishment as
10 directed to me by my supervisor to take
11 photographs of each of the four or five
12 establishments that I went to to show proof that
13 the establishment was in compliance of the
14 signage.

15 MR. ADAMS: And when did you take that? Was
16 that before you went inside or after?

17 INVESTIGATOR LEFTWICH: This photograph was
18 taken before I entered the establishment.

19 MR. ADAMS: Now, first of all on the left
20 side of the establishment there are a couple of -
21 - I believe there's a couple of doors. Before I
22 say anything, is this a true and accurate version

1 of the photograph that you took on March 1, 2016?

2 INVESTIGATOR LEFTWICH: Yes, it is.

3 MR. ADAMS: On the door on the left side can
4 you describe that door and is there a security
5 door there?

6 INVESTIGATOR LEFTWICH: The door is open to
7 go in. You enter into that door. On the left
8 door it looks as though there is maybe something
9 there on the other side of the window to possibly
10 inhibit you from entering that door but there's
11 nothing blocking or saying 'do not enter' -- it
12 actually has a pull sign on it.

13 MR. ADAMS: On the right hand side below, can
14 you tell us if there's another window there?

15 INVESTIGATOR LEFTWICH: Yes, there's another
16 window.

17 MR. ADAMS: In the window there's some signs
18 there, correct?

19 INVESTIGATOR LEFTWICH: Yes.

20 MR. ADAMS: Is there any sign that sticks out
21 in particular?

22 INVESTIGATOR LEFTWICH: Yes, there is that

1 open -- an illuminated open sign in the window as
2 I recall.

3 MR. ADAMS: So the wording says open but are
4 there lights on there?

5 INVESTIGATOR LEFTWICH: Yes.

6 MR. ADAMS: All right. I'd like to have
7 what's marked for indication's purposes as
8 District's Exhibit #2 entered into evidence.
9 Unfortunately, I only have one copy.

10 CHAIRPERSON ANDERSON: Do you have any
11 objection?

12 MR. STEFORCE: Yes.

13 CHAIRPERSON ANDERSON: What's the nature of
14 your objection, sir?

15 MR. STEFORCE: The objection is that this
16 picture taken, that he say that day, we don't
17 have no proof of that. He can come back any day
18 and take it or come back and then there's
19 questions that I have for him. Can I ask him
20 questions?

21 CHAIRPERSON ANDERSON: No, we're just talking
22 about the document. What you're trying to

1 authenticate. Go ahead and -- why don't you put
2 the question in relation to what, sir? About the
3 picture? It has to be about the picture.

4 MR. STEFORCE: Yeah, about the picture.

5 CHAIRPERSON ANDERSON: What's the question
6 about the picture?

7 MR. STEFORCE: He don't have no dates, what
8 date that picture been taken.

9 CHAIRPERSON ANDERSON: So, you're objecting
10 to it because you can't authenticate when the
11 picture was taken?

12 MR. ADAMS: Mr. Chairman it is authenticated.
13 The witness stated that he took it on March 1st.

14 CHAIRPERSON ANDERSON: I -- Mr. Adams, I'm
15 stating he's stating the nature of his objection.

16 MR. ADAMS: Yes, sir.

17 CHAIRPERSON ANDERSON: The nature of his
18 objection is that he is saying that we cannot
19 authenticate it. I will overrule the objection
20 and allow the document in. Your objection, for
21 the record, sir, you're a quick learner -- I'm
22 being very serious, I mean that's what's supposed

1 to be done.

2 MR. ADAMS: All right, I have no further
3 questions.

4 CHAIRPERSON ANDERSON: All right. Do you
5 have -- you have an opportunity to cross examine
6 him. Do you have any questions?

7 MR. STEFORCE: Yes.

8 CHAIRPERSON ANDERSON: Do you want the
9 picture back?

10 MR. STEFORCE: No. I have a question.

11 CHAIRPERSON ANDERSON: But the questions that
12 are being asked have got to be on this picture,
13 that's why he is called.

14 MR. STEFORCE: Yeah.

15 CHAIRPERSON ANDERSON: So, all your questions
16 have to be regarding this.

17 MR. STEFORCE: He asked him about who entered
18 the store first and how did they enter.

19 CHAIRPERSON ANDERSON: Go ahead.

20 MR. STEFORCE: So, you say that DCRA
21 representative was with you.

22 INVESTIGATOR LEFTWICH: Yes.

1 MR. STEFORCE: So he entered before you.

2 INVESTIGATOR LEFTWICH: Yes.

3 MR. STEFORCE: Did you see him showing the
4 badge entering the premises?

5 MR. ADAMS: Objection. Beyond the scope of
6 the rebuttal testimony.

7 CHAIRPERSON ANDERSON: I'm going to overrule
8 the objection. I mean there's testimony that she
9 opened the door because of a badge, so in that
10 case I'll overrule the objection. Go ahead,
11 answer the question, sir.

12 MR. STEFORCE: Before you entered the store,
13 he entered before you?

14 INVESTIGATOR LEFTWICH: Yes, he entered the
15 store freely. No one was there inhibiting him
16 from going in, nor did he have to --

17 MR. STEFORCE: I'm asking, before him or
18 after him?

19 INVESTIGATOR LEFTWICH: I entered after him.

20 MR. STEFORCE: After him?

21 INVESTIGATOR LEFTWICH: Yes.

22 MR. STEFORCE: Did he show a badge when he

1 entered in or no?

2 INVESTIGATOR LEFTWICH: Yes.

3 MR. STEFORCE: Okay. If he shows a badge,
4 that's [inaudible 2:15]. If he shows a badge, so
5 he did show a badge, you entered freely.

6 INVESTIGATOR LEFTWICH: My badge is around my
7 neck, so I did not --

8 MR. STEFORCE: So, you entered freely?

9 INVESTIGATOR LEFTWICH: Yes.

10 MR. STEFORCE: Okay, but you didn't know if
11 he shows a badge to enter the premises or not?

12 INVESTIGATOR LEFTWICH: I watched him open
13 the door and I waited until he closed the door so
14 I could take the photo -- or until the door
15 closed.

16 MR. STEFORCE: That's all.

17 CHAIRPERSON ANDERSON: All right, any
18 questions by any other members of the board of
19 the witness? Hearing none, thank you, Mr.
20 Leftwich, you may step down. Does the government
21 rest?

22 MR. ADAMS: The government rests its case.

1 CHAIRPERSON ANDERSON: Does the government
2 wish to make a closing statement?

3 MR. ADAMS: Yes. Mr. Chairman, this is
4 actually a very simple case. We've done -- the
5 respondent so far has tried to obfuscate and
6 confuse the court but it's really open and shut.
7 At 10:20 a.m. on March 1st the investigator
8 arrived at the establishment to make an
9 investigation of window lettering. A DCRA
10 representative and the investigator simply opened
11 the door. You see from the exhibit that not only
12 is the door unlocked and the security door is up
13 but there is actually a sign that illuminates the
14 word "open." So, at that point the
15 representative from ABRA can make the assumption,
16 as well as the public, that the establishment is,
17 indeed, open.

18 The owner was not there in the establishment
19 nor was anyone who is here at the establishment.
20 You can only take the most credible testimony at
21 this point and that falls to Mr. Leftwich that he
22 came inside the establishment, they saw other

1 patrons within the establishment. Even if he
2 didn't see other patrons inside the
3 establishment, the fact of the matter is the
4 establishment represented itself as open and that
5 there was a person who was behind -- and this
6 person was already inside the partition area and
7 that person allowed them within that partitioned
8 area. He testifies that there was communications
9 between Ms. Mekele and the other persons who were
10 inside the establishment and there's no context
11 by which you can interpret the people to be
12 workers.

13 Based upon that evidence, the board can
14 establish, and the District has established, that
15 patrons or the public had access for them to be
16 inside the establishment. If anything, the
17 excuses being used thus far, that at the time
18 that this occurred was that Ms. Mekele wanted to
19 allow someone inside to use the ATM that still
20 means that someone came inside the establishment
21 to conduct business within the establishment.
22 Under the strict interpretation of the statute,

1 the statute states that if within the hours of
2 operation there must be an ABC manager or owner
3 at the establishment. It doesn't state anything
4 about whether they're buying anything or using
5 the ATM, it just states that you're representing
6 yourself as open. The establishment did have a
7 locked door. The door was open and anyone could
8 access the establishment. Therefore, if Ms. Mamo
9 is not there that means that there is a
10 violation. The establishment does not have a
11 registered ABC manager as of March 1st, 2016, so
12 that's a violation and it's pretty simple and
13 open and shut. There's really no possible angle
14 by which it's not a violation in this case. So,
15 as a result, this would be their first secondary
16 tier violation, and the District asks for a \$500
17 fine.

18 CHAIRPERSON ANDERSON: For how much?

19 MR. ADAMS: \$500.

20 CHAIRPERSON ANDERSON: I thought you said
21 \$500,000. That's why -- Do you wish to make a
22 closing statement?

1 MR. STEFORCE: I don't have anything.

2 CHAIRPERSON ANDERSON: You don't have a
3 closing statement? What is it you want us to do?

4 MR. STEFORCE: That's your own decision. I
5 mean, I don't -- I'm not a witness or nothing --

6 CHAIRPERSON ANDERSON: You are the
7 representative. You're telling me what you want
8 us to do, based on the testimony that was
9 presented.

10 MR. STEFORCE: The testimony is the DRCA and
11 the officer when they came in that place she let
12 them in because, like I asked them earlier, that
13 area every time we have a lot of crime, a lot of
14 people steal every day, and we have police
15 reports, they come in there, the police officers,
16 the reason when they show her a badge and she let
17 them in is because every time anything happen the
18 police officers they come there either to take a
19 statement or to write, you know, a citation from
20 anything. So, every time anybody shows a police
21 badge we let them in. So, that's the reason she
22 let them in. And whoever come after her on the

1 premises she doesn't have control of that because
2 she was inside the partition place making a phone
3 call for the owner to let her know. And yes,
4 that place have ABC manager, because when you ask
5 the question earlier the interpreter he didn't
6 interpret it for her because he was asking her
7 did you have manager at the time of the place?
8 That's why she said no. But yes, even though
9 she's the owner, she have registered manager
10 because he's a family member as well because it
11 was a family emergency and they were both at the
12 hospital, that's why they couldn't come, but when
13 she was on the way she called them and she didn't
14 know it was from the alcohol control board, all
15 she know was the police officers are here and she
16 thought it was from the street, police officers
17 they were that somebody stole a couple of wines
18 the days before so she was there, you know, they
19 were there to investigate so that's why she let
20 them in. Besides that we don't have no evidence
21 and I don't have anything to say.

22 CHAIRPERSON ANDERSON: You've said enough,

1 sir. Thank you.

2 As chairperson of the Alcoholic Beverage
3 Control Board for the District of Columbia I
4 guess I should say, do you guys want to do facts,
5 conclusions of law or facts, do you want to do it
6 in writing?

7 MR. ADAMS: The District does not wish to
8 file any written findings of fact or conclusions
9 of law.

10 CHAIRPERSON ANDERSON: Do you want to rest on
11 the evidence that was presented today?

12 MR. STEFORCE: Yes.

13 CHAIRPERSON ANDERSON: All right. Thanks.
14 The record is now closed. As chairperson of the
15 Alcoholic Beverage Regulation Administration and
16 in accordance with Section 405 of The Open
17 Meetings Amendment Act of 2010, I move that the
18 ABC Board hold a closed meeting on February 1,
19 2017, for the purpose of seeking legal advice
20 from our counsel on case #16-CMP-00385, Montana
21 Liquors, per section 405 B 4 of the Open Meetings
22 Amendment Act of 2010 and deliberating upon case

1 #16-CMP-00385, Montana Liquors, per section 405 B
2 13 of the Open Meetings Amendment Act of 2010.

3 Is there a second?

4 UNKNOWN: Second.

5 CHAIRPERSON ANDERSON: I will now take a roll
6 call vote on the motion before us now that it has
7 been seconded. Ms. Hobson?

8 MS. HOBSON: Aye.

9 CHAIRPERSON ANDERSON: Mr. Silverstein?

10 MR. SILVERSTEIN: Aye.

11 CHAIRPERSON ANDERSON: Mr. Short?

12 MR. SHORT: I agree.

13 CHAIRPERSON ANDERSON: Mr. Alberti?

14 MR. ALBERTI: I agree.

15 CHAIRPERSON ANDERSON: Mr. Anderson? I
16 agree. As it appears that the motion has passed,
17 I hereby give notice that the ABC Board will hold
18 a closed meeting in the ABC board conference room
19 pursuant to the Open Meetings Amendment Act of
20 2010 and issue an order. Thank you very much.
21 We will take this matter under advisement and
22 issue a decision.

1 MR. ADAMS: Take care.

2 CHAIRPERSON ANDERSON: Thank you.

3 MR. STEFORCE: So that means we come back?

4 CHAIRPERSON ANDERSON: No. We will -- we
5 listened to all the information today so we'll
6 make a decision, so you'll get something in
7 writing what our decision is. Thank you very
8 much for being here today.

9

10 (Whereupon, the above-entitled matter was
11 concluded.)

12